

Regular Meeting
Monday, October 13, 2014
Bloomington Civic Plaza
1800 West Old Shakopee Road
Bloomington, Minnesota 55431-3027

- 1 **CALL TO ORDER - 7:00 PM**

Mayor Winstead called the meeting to order at 7:00 p.m.

Present: Councilmembers C. Abrams, J. Baloga, T. Busse, A. Carlson, D. Lowman and J. Oleson.
- 2 **INTRODUCTORY**
- 2.1 **FLAG PRESENTATION**

Mayor Winstead led the audience in the pledge of allegiance to the flag.
- 2.2 **3CMA Communications Awards**

Requested Action: Receive presentation of the awards given to the City of Bloomington at this year's City-County Communications and Marketing Association's Savvy Awards Contest.

Janine Hill, Communications Administrator presented the two awards earned by the City at this event; one for the State of the City event and one for the Bloomington Briefing publication.
- 3 **CONSENT BUSINESS**
- 3.1 **Penn American Temporary Sign Variance**

Requested Action: Adopt a resolution approving a variance for Penn American Retail Investment LLC to decrease the required setback from the public right-of-way for two temporary banners with construction signs, special temporary sign announcing future development, and real estate signs as part of a screening element from 20 feet to 0 feet, subject to the conditions listed in the staff report.

Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution approving the variance as described above. (R-2014-102)
- 3.2 **Greg McPherson; 9709 14th Ave. S. Variance Prevailing Front Yard Setback**

Requested Action: Adopt a resolution approving a variance to reduce the required prevailing front yard setback from 65 feet to 45 feet for a garage addition to an existing single-family detached home, subject to the conditions listed in the staff report.

Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution approving the variance as described above. (R-2014-103)
- 3.3 **Diseased Tree Removal in Districts #1, 2, and 4 - Approve Amendment**

Requested Action: Approve amendment of the contract with North Star Tree Care for diseased tree removal in Districts #1, #2, and #4 to increase the not-to-exceed amount to \$297,779.29.

Motion was made by Busse, seconded by Abrams, and all voting aye, approve the amendment as described above.

- 3.4 Fire Equipment Fund Transfer** Requested Action: Increase the budget appropriation in account 617-0619-499-7042 by \$27,695 to adjust the capital budget for the total cost of the All-Terrain Vehicle (ATV) and rescue boat. There is sufficient fund balance for this budget adjustment. Funding for the ATV and rescue boat is included in the 2014 Fire Equipment Replacement Fund 617-0619-499-7042. Additional funds are requested due to the increased costs of the Mini-Pumper and Boat.
- Motion was made by Busse, seconded by Abrams, and all voting aye, to approve the budget appropriation as described above.
- 3.5 Overlook Lake Outfall Replacement Project Approve Plans and Specs: 2014-902** Requested Action: Approve the plans and specifications for the 2014-902 Overlook Lake Stormwater Outfall Replacement Project.
- Motion was made by Busse, seconded by Abrams, and all voting aye, to approve the plans and specifications for Project 2014-902.
- 3.6 Minnesota Counties Computer Cooperative Joint Powers and Amended Bylaws and Ratify Agreement - Approve** Requested Action: Approve the amended bylaws and amended and restated Joint Powers Agreement with the Minnesota Counties Computer Cooperative (MCCC) dated June 4, 2014, and ratify the PH-Doc Maintenance & Support Agreement between MCCC and Xerox State & Local Solutions, Inc.
- Motion was made by Busse, seconded by Abrams, and all voting aye, to approve the MCCC Joint Powers Agreement and to ratify the Maintenance & Support Agreement per the agenda materials.
- 3.7 Abating Debt Service Levies Adopt Resolution** Requested Action: Adopt a resolution abating the Debt Service levy for the General Obligation Taxable PIR Bonds Series 2010, General Obligation Capital Improvement Plan Bonds, General Obligation PIR Refunding 2011 bonds, General Obligation PIR Refunding 2012A bonds, and General Obligation PIR Series 47, 2013 bonds as listed in the agenda materials.
- Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution abating the Debt Service levies in 2015. (R-2014-104)
- 3.8 Accept Donations** Requested Action: Accept the donations as listed in the agenda item and approve an amendment to the revenue and expenditure budgets to facilitate the appropriate use of these funds.
- Motion was made by Busse, seconded by Baloga, and all voting aye, to accept the donations as listed in the agenda materials and approve the budget amendments to facilitate the appropriate use of the funds.
- 3.9 State Park Road Account Grant Application Old Cedar Avenue Adopt Resolution** Requested Action: Approve applying for the proposed State Park Road Account Program and adopt the resolution of support of the request for Department of Natural Resource funding a portion of the reconstruction of Old Cedar Avenue.
- Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution in support of the State Park Road Account grant application for Old Cedar Avenue. (R-2014-105)

**3.10 900 American
Boulevard West;
Default by TopLine
Federal Credit Union**

Requested Action: Adopt a resolution declaring a contract default by Topline Federal Credit Union for failure to commence construction on the property located at 900 American Boulevard West and to notify TopLine of the default.

Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution as described above. (R-2014-106)

**3.11 Additional Election
Judges Approve**

Requested Action: Approve the individuals listed in the agenda materials as eligible to serve as election judges for the 2014 General Election.

Motion was made by Busse, seconded by Abrams, and all voting aye, to approve the list of election judges as listed in the agenda materials.

**3.12 Hauler Negotiations
Organized Collection
Solid Waste Adopt
Resolution**

Requested Action: Adopt a resolution initiating the process to consider organized collection of solid waste and recycling and to begin negotiations with the existing haulers.

This item was held by Baloga to provide an overview of what this means to the public.

Baloga held out this item to provide an overview of what this means to the public. He explained when the process to consider organized trash collection in Bloomington began and that Foth Consulting was hired by the City to assist staff in facilitating the process. He said the City is attempting to reduce the number of heavy, polluting and potentially dangerous trucks on Bloomington streets and adoption of a resolution by the Council is required to set up the state mandated process. He described the timeline during which the current haulers servicing Bloomington will meet with City staff to try and negotiate an agreement. He stated the Council could act on a negotiated contract by February 2, 2015. He added if that process doesn't result in a negotiated contract, the City would initiate a Request for Proposals process.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to adopt a resolution establishing the 60-day negotiation period between the City of Bloomington and licensed residential collectors as per Minnesota Statute 115A.94 Organized Collection. (R-2014-107)

**3.13 Meeting Minutes City
Council-Approval**

Requested Action: Approve the following 2014 City Council Meeting minutes: March 14 (Joint City Council/Legislative Delegation), June 2 (Regular), June 23 (Regular), and July 7 (Regular).

Motion was made by Busse, seconded by Abrams, to approve the 2014 meeting minutes listed above as presented. Motion passed 7-0 except for the March 14th Joint Council/Legislative meeting from which Baloga abstained due to his absence from that meeting.

**3.14 34th at I494 Signal
Maintenance
Agreement**

Requested Action: Adopt a resolution approving Agreement No. 02915 for the operation and maintenance of the traffic control signal at the interchange of 34th Avenue and I-494.

Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution approving Agreement No. 02915. (R-2014-108)

**3.15 Ciao Bella; Liquor Tax
Penalty and Interest
Abatement -
Acknowledgement**

Requested Action: Acknowledge receipt of the report requesting penalties and interest abatement of \$293.81 for Ciao Bella Restaurant.

Motion was made by Busse, seconded by Abrams, and all voting aye, to acknowledge receipt of the penalty and interest abatement for Ciao Bella.

**4 PUBLIC COMMENT
PERIOD**

Mayor Winstead declared the public comment period open for those wishing to address the Council on matters other than items included on the agenda.

Speaker #1: Sally Ness, 8127 Oakland Avenue South
She talked about the non-compliant uses taking place at the Dar Al Farooq Youth & Family Center (AFYFC) at 8201 Park Avenue South including a restaurant that had opened and was shut down. She reported AFYFC is running a university and a graduate school out of their building. She talked about an event at AFYFC in which 1500 people attended and showed photos of cars parking in the street until 1:30 a.m. She talked about cars double parking at AFYFC during their two Friday prayer services and have blocked the driveway to the Smith Park parking lot trapping cars in that lot. She commented no emergency vehicles would be able to get through on Park Avenue on Fridays. She questioned what the City is going to do about AFYFC hosting a university and a graduate school.

Winstead said fire lane violations will be enforced by the City accordingly.

Ness added there needs to be two police officers directing traffic on Fridays.

The Mayor asked if anyone else wished to address the Council during the public comment period, or it would be closed. No one came forward to speak so the public comment period was closed.

**5 LICENSING DIVISION:
PUBLIC HEARINGS**

**5.1 Global Health
Ministries Temporary
Liquor License**

Requested Action: Approve the On-Sale Liquor Special Event license application for Global Health Ministries at Nativity of Mary Church at 9900 Lyndale Avenue South on Friday, October 17, 2014.

Motion was made by Baloga, seconded by Busse, and all voting aye, to approve the license as described above.

**6 DEVELOPMENT
BUSINESS: PUBLIC
HEARINGS**

**6.1 Cedar Valley Church
8600 Bloomington
Avenue South Change
of Condition**

Requested Action: Approve a Modification to Condition of Approval #1 in Case 8911A-11 to increase the maximum number of students from 700 to 750 for two charter schools at 8600 & 8700 Bloomington Avenue South. All other Conditions of Approval from Case 8911A-11 to remain the same.

Planning Manager Glen Markegard presented the staff report indicating it is recommended for approval by staff but noted one correspondence item received relating to evening activities.

Motion was made by Baloga, seconded by Lowman, and all voting aye, to approve the Modification to Condition of Approval #1 in Case 8911A-11 to increase the maximum number of students from 700 to 750 for the charter schools at 8600 Bloomington Avenue South.

Council questioned how the increase in students in grades 6-8 will affect the number of students being bussed or driven to school and if the enrollment number is increasing due to more all day kindergarteners.

Speaker #1: Pastor Strandquist, Cedar Valley Church

The junior high students will be moving out so the student count should go down. He doesn't anticipate the elementary enrollment to reach the 750 mark for quite some time even with all day kindergarten.

No public testimony was received.

6.2 Interim Use Permit for Remote Airport Parking

Requested Action: Approve a five-year Interim Use Permit for a remote airport parking facility located at 7901 International Drive subject to the conditions listed in the staff report.

Planner Dennis Fields presented the staff report on this application by Airport Construction of Minnesota, Inc. (Park 'N Go), which began in the early 1990's. It was recommended for approval.

Motion was made by Abrams, seconded by Baloga, and all voting aye, to approve a five-year Interim Use Permit per the conditions listed in the staff report.

6.3 Gonyea Homes, Inc. Variance 8301 W 110th Street

Requested Action: Adopt a resolution approving a variance to increase the allowed height from 40 feet to 45 feet for a single-family home located at 8301 West 110th Street subject to the conditions listed in the staff report.

Fields presented this staff report which was recommended for approval by staff and the Planning Commission. It's a model for the subdivision that requires a variance, as other lots will have walkouts and will require variances. He reported the Planning Commission plans to review the ordinance to determine if it needs to be amended to allow different heights based on the design and size of the home. He said the other Code complying house was a look out style with a height of 37 feet.

No public testimony was received.

Motion was made by Baloga, seconded by Busse, and all voting aye, to adopt a resolution approving a variance to the maximum height of a single-family home from 40 feet to 45 feet located at 8301 West 110th Street, subject to the conditions listed in the staff report. (R-2014-109)

6.4 Dwan Bluff Preliminary and Final Plat

Requested Action: Approve the Preliminary Plat and adopt a resolution granting Final Plat approval of DWAN BLUFF located at 3325, 3401, & 3501 Overlook Drive subject to the conditions listed in the staff report.

Winstead stated this item is back for reconsideration by the City Council.

City Manager Mark Bernhardson talked about the City's subdivision ordinance that has been around a long time and said a denial of this plat would change the rules. He said 110th Street averages 4,000 cars per day and this subdivision is only projected to generate trips that are diverted (get this). He said had the rules for this subdivision been in effect in (get this), Bloomington would look much different. He said Bolten & Menk was the City's traffic engineering consultant on this application. He said a decision by the Council to do anything other than approve this plat could subject the property tax payers of this community to the risk of a lawsuit (get this).

City Attorney Sandra Johnson provided additional information on the limited role Council has in reviewing plat applications for which the Council has limited discretion. She discussed the difference in approving plats vs. Conditional Use Permits and what the courts require for objective City standards. If Council disagrees with the rules, they could be changed but not for this application. She explained changes to the Comp Plan cannot be applied to this plat. This plat doesn't conflict with the Comp Plan, as the City's intent was always to connect the two Overlook Drives; not cul-de-sac them. She commented the neighborhood's traffic engineer didn't recommend the street not be connected; only that traffic mitigation measures be used. She explained why this case is not similar to the Martin Luther Manor case (RDNT vs. City of Bloomington).

Council asked if a moratorium could be imposed at this point and Johnson replied there is no study underway so no moratorium can be adopted. There would be a cost and a risk in ordering it and a delay could be a killer to development.

Markegard kicked off the staff presentations by presenting a slide presentation. He discussed the City Code and reported no variance was sought with this application. At the Council's request, he provided information on various cul-de-sacs located within the city of 600 feet in length or greater. His presentation also addressed issues relating to cul-de-sacs including address finding, emergency response, and looped water lines. He reported the City worked with a state archaeologist and visited the site and found no evidence of burial mounds but added if one is discovered during the development process, it would be preserved.

City Traffic & Transportation Engineer Kirk Roberts provided the next staff report regarding traffic. He commented on the traffic memo that was provided to Council by Ronnie Williams on behalf of the Overlook Alliance. He disagreed with Williams' traffic projections and said Overlook is a local street and doesn't need to change. He provided details regarding the projected traffic counts on the west and east ends of Overlook Drive as well as the redistribution of neighborhood traffic. The City's data projected daily trips will likely average between 300 and 465 per day. He reported Bolten & Menk studied all the roads in the area and developed screen lines to determine the worst case scenario. He addressed the issue of travel demand modeling that was requested by the consultant for the Alliance by stating it is rarely done on a local street. It would have involved a travel shed for the entire southern portion of Bloomington and it could cost up to \$100,000 and take two months time. He showed the City's functional classification map of streets and said the Comp Plan indicates Overlook Drive is a local street. He said Williams' memo indicated Overlook should be classified as a collector street.

Council questioned whether classification changes had been made to Overlook Drive. Staff replied in the 2000 Comp Plan update, the section of Overlook Drive between France Avenue and Xerxes Avenue was classified as a "Minor Collector," the same as between Xerxes Avenue and Penn Avenue but it was changed in the 2008 Comp Plan.

Applicant #1: Peter Jarvis, Developer (Applicant)

He thanked the Mayor and the Council for their reconsideration of the plat and commented on the talk about traffic calming measures and design. He met with City staff about design options and said he's not opposed to any of them. If given Council's blessing on the plat, he said the Dwan family will be open to many designs to deter drivers from using Overlook. They might be more expensive but he's open to them. The road could be designed more like a lane through the use of tree plantings.

There was discussion regarding whether or not Jarvis had ever discussed different alternatives to the current design with the Alliance representatives.

At Council's request, Jarvis described how the stormwater will be handled with the development and said they're not relying on the golf course to handle it.

Mayor Winstead invited the public to provide testimony.

Speaker #1: Tony Schoenecker, Representing the Overlook Alliance

He began his presentation by stating his traffic engineer couldn't attend tonight's meeting. His slide presentation covered the reasons why Council should deny the plat, the amount of strong neighborhood opposition to this project, the validity of the traffic memorandums from the Overlook Alliance and their inconsistencies, the definition of a collector street, why there will be a decrease in the safety and welfare of the neighborhood, line of sight concerns, and why Overlook Drive is different from other streets.

Speaker #2: Steve Hance, Overlook Drive Alliance Attorney

He talked about why this plat is complicated due to State statutes and conflicting traffic reports. He said putting in a cut-through street is a reason for denial of a plat and quoted from various lawsuits. He explained the Council can consider the expert testimony in making its decision, which includes the two expert reports that were submitted to the Council; one of which is the Williams & Ryan memorandum from the Alliance. He explained why the plat should be denied if Overlook Drive is a collector street. He said concrete evidence regarding traffic concerns is cause for rejecting the plat under the health, safety and welfare finding.

Winstead commented the neighborhood is turning Overlook into a collector street; not the City. The Alliance experts believe the traffic volumes will turn it into a collector street so they're putting a lot of consideration into that. He said the Council is considering a plat on a street that is designed as a local street.

Speaker #3: Alvin Johnson, 11181 Quinn Avenue South

He distributed information to the Council regarding traffic counts and said his numbers are an extraction from the City's Comp Plan. He gathered rush hour morning traffic counts on September 25, 2014, from 6:20 – 8:20 a.m. and on October 7. He talked about the routes traffic will use to exit the Overlook Drive neighborhood to go east to 35W. He disputed the routes the Alliance said vehicles will use and said they won't be using Overlook Drive.

Winstead asked for and received conformation that Johnson supported the plat and the road connection on Overlook Drive.

Speaker #4: Victor Mellen, 11141 Washburn Avenue South
He walks this road daily and his wife runs a daycare to which some kids arrive by bicycle. He said it's only local people driving this road and they're careful. He said people don't want this connection and the Council voted no before so questioned why everyone is back here again.

Speaker #5: Cindy Heimerl, 3115 Overlook Drive
She said this neighborhood has worked hard to develop a deeper sense of community. She talked about painting her father's house and that it's added character to the neighborhood. She asked the Council to consider the character of the Overlook Drive neighborhood and allow the developer to work with the family to make something that will work for everyone.

Motion was made by Baloga, seconded by Busse, to close the public hearing. No vote was taken at this time.

Speaker #6: David Schutten, 3710 Overlook Drive
He said the more they hear from both sides, the more they believe the Overlook connection is not necessary. He said the developer has said he is willing to work with the neighbors. He said a wide enough bike path that could be used by emergency vehicles would alleviate that concern. He said if the neighborhood's study is correct, the road would violate the Code but if the City is correct, questioned why a road would be needed.

Winstead said it's clear the majority of people here are opposed to the plat.

Speaker #7: Rod Daniels 2151 Overlook Drive
He talked about traffic patterns between 4-5 p.m. and said traffic really stacks up on 106th Street. He said the traffic back-up will cause people take another route. He talked about the amount of traffic on 110th Street also. He said if a new road is going to be built, the City needs to look at the entire road from Normandale to 106th Street. He asked who'll be paying to upgrade 106th Street so it's not so dangerous. He is opposed to the plat.

Speaker #8: Kim Maiello, 3010 Overlook Drive
She said common sense is missing. She said Overlook Drive has already been deemed a collector road and now a connection is being proposed. She said people will definitely use it once it's connected. She said the numbers don't matter, it's just common sense it will be used.

Mayor Winstead called for a vote on the motion to close the public hearing and it passed unanimously.

Winstead said the Council is reconsidering the resolution of denial of the plat, but it's become complicated. The plat formalizes the boundaries of a residential subdivision, which contains a local road with a connection and the neighborhood doesn't like what changes that connection will bring. He said having lived on Xerxes Avenue, he knows the neighborhood and the area very well. He drives this area. As a former property owner on Overlook Circle, he understands what the connection could mean. He said there will be a volume of traffic on Overlook Drive but is troubled by the Alliance's traffic study. He said the plat will create residential lots in a residential area and he doesn't foresee that being detrimental to the neighborhood. It's appropriate for what Bloomington is but it's a change and people disagree with it. He said it's been overcomplicated from both sides.

Baloga commented on the considerable thought given to this process by all parties but said the Council should address the six reasons the Alliance gave for why Council should deny the plat. Regarding their traffic study, he said the neighborhood's engineers weren't available for Council questioning while the City's traffic consultant Bolten & Menk have been at all of the Council and Planning Commission meetings. Regarding compliance of the plat, he said it depends on which traffic study you believe. He said with regard to safety and welfare, people tend to believe their property value will diminish with a project like this but that is never found to be the case so he doesn't buy into the safety and public welfare argument. He appreciated the public testimony. He said there are a lot of people who don't share the same passion as those in the audience and the Council has to represent everyone; they too have a voice. He acknowledged there were e-mails from people who support the road connection. He said the Council performs a judicial role. They took an oath to uphold the constitution and all of the laws, ordinances and codes of the City of Bloomington. He said he has to support the plat. He has to follow the laws that currently exist and his interpretation of them. He said it all hinges on the appropriate traffic study to use and he agrees with the Bolten & Menk study.

Lowman said he's talked with people who support the road going through and some of the Alliance members and it comes down to a lens and a hat. He said in the judicial role, the Council needs to use a lens in this decision. He also believes in property rights. In looking at the six reasons put forth by the Alliance for denying the plat, he said he can't support the first reason for denial being residential opposition. Regarding the traffic study, he said it would be difficult to ask the Council to make a decision on the lens. He said he can't make the rationale that the streets are not in compliance. With regard to the safety and public welfare argument, he said if the Council agrees with the Alliance, most of the streets would have to shut down. With regard to a hat, he said this is not a hearing about making public policy. The past has cast a shadow on where we're at today. Regarding the plat, he said there is a case to be made on the classification of the street. He said Overlook has been classified as a collector since 1958. From a long-term standpoint, he understands what the Alliance is saying. He said the developer said it would be impossible to build (13) homes if there is a cul-de-sac. He can't support this plat because of the classification of Overlook as a collector street. He cannot support this based on the third finding.

Abrams commented the Alliance is a group of citizens who thought, until this evening, this was a dialogue and that drove their hope that some collaboration could be arranged with the developer. She said the Alliance is just finding out now that is not going to happen, which could have changed their efforts prior to this evening. She said the Council is still considering an application, which she continues to deny based on the City's Comp Plan. This is one of the last undeveloped lands in the city going back to when the land was donated to the City for the golf course. She said it should have been all along a discussion centered on the Comp Plan and the future of this property. She said the City revised the Comp Plan in 2008 and the City considered not making the connection. She said that is when a long-term conversation about neighborhoods, traffic, demographics and future development should have taken place. If it had made sense that by all logic to make a connection, that is when that discussion should have taken place. Not with the pressure of a plat. She said the policy was not to have a road connection in the Comp Plan so her vote is no on this plat, which is supported by the 2008 Comp Plan.

Busse said he originally pushed aside the issue of health and safety, but rather talked about welfare and considered the character of the neighborhood. He said the character of this neighborhood will be changed. The residents have a fear of loss; of losing a dead-end. He said the developer brought forth a plat that is Code complying and codes are like laws. It's what the City requires of developers and homeowners. It works both ways and the rules can't be changed in the middle of the game. He said everyone needs to keep that in mind. The plat is compliant and meets all of the City's requirements. He said it would be reckless for the Council to deny it, as it would put the entire city of Bloomington at risk. To approve it, is the responsible thing to do; protecting the City's financial interests in the long term. He said this proposal must go forward.

Oleson said having been a Council member for seven months; this application isn't an easy one to figure out. He said he was one of the five Council members who voted against this plat at the September 8th meeting. His thoughts on the traffic study at that time were that it should go back to the committee for more work. He said there are conflicting rights here. He commended the neighborhood for its hard work on this. He reported he watched the traffic at Sheridan and at Morgan and that it moved fairly smoothly with no significant delay. He said rush hour is a fact of life and people have to deal with it. He said adjusting to the change will make some people angry. He said there was discussion about the safety of children on their bikes but the City can do some things to help that out. He pointed out the Alliance is not against the developer developing this land but it's about the road connection. He said the developer has had second thoughts about a cul-de-sac. He then talked about the trails. He said the Council will have some power in the design of this street to help alleviate some of the neighborhood's concerns. He said he will support the plat with the understanding that what Mr. Jarvis said he could do and what the City and the Council can do should help mitigate some of the residents' issues.

Carlson said he came into this looking at the resolution of denial but agreed it was weak and hasn't heard anything to strengthen the reasons for denying the plat. He said the Council has very little discretion in what it can approve but does have a great deal of discretion when it comes to the design of the road and what traffic calming measures can be implemented. He said that will be looked at and considered carefully. He supports the plat.

Motion was made by Baloga, seconded by Busse, to approve the Preliminary Plat and adopt a resolution granting Final Plat approval of DWAN BLUFF located at 3325, 3401, & 3501 Overlook Drive subject to the conditions listed in the staff report. No vote was taken at this time.

Winstead said this application has been a tough one and it's not been easy for the Council. He said he approached this by looking at the case before the Council. He understands the procedure and process and said it needs to be looked at within Bloomington's ordinances. He said he supported the resolution of denial and then requested it be brought back for reconsideration by the Council. He said if Lowman and Abrams want to talk about what is wrong with the City's Zoning Code regarding subdivisions, they should bring that forward but said the zoning has served this City well. He said the Council does have some discretion on how the road is designed and said it should be a road that is enjoyable for the residents. He stated he doesn't want to see it widened.

Lowman said his vote is not a vote against policies of the City.

Mayor Winstead called for a vote on the motion. It passed 5-2 (Abrams and Lowman opposing). (R-2014-110)

Council Recessed Mayor Winstead called for a 10-minute recess.

Council Reconvened Mayor Winstead reconvened the meeting at 11:36 p.m.

7 TRANSPORTATION & UTILITY IMPROVEMENTS: PUBLIC HEARINGS None.

8 ORDINANCES: PUBLIC HEARINGS

8.1 Transferring Septic Enforcement Program to Hennepin County

Requested Action: Adopt a resolution and approve an agreement with Hennepin County to transfer permitting and enforcement authority for Subsurface Sewage Treatment Systems (SSTS) also called individual sewage treatment and septic systems, effective January 1, 2015.

Community Development Director Larry Lee presented this item. He said staff recommends the Council take three separate actions to transfer the enforcement of the City's septic systems to Hennepin County.

Council had questions pertaining to how many properties this action involves, is there a deadline for them coming on line or will the status quo be continued, what's different since Council discussed this issue two years ago, and is there a cost savings factor for the City in transferring this to the County.

Lee replied there are 42 septic systems but some have more than one and it involves approximately 38 or 39 different properties. He said converting them to sewer is very expensive but there is no deadline so the status quo will be continued. He said nothing has changed except the approaching State deadline, which made this action a higher priority. Regarding fees, he said the City's fee doesn't come close to covering staff time. He added when a system fails, it can be extremely costly for the City.

Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution transferring the SSTS enforcement authority to Hennepin County beginning January 1, 2015, and approving the related agreement. (R-2014-111)

Motion was made by Busse, seconded by Abrams, and all voting aye to adopt an ordinance approving the City Code amendments to remove the SSTS regulations and to make miscellaneous changes to the Public Nuisance and Well sections as part of the transfer of the enforcement program to Hennepin County. (O-2014-14)

Motion was made by Busse, seconded by Abrams, and all voting aye, to adopt a resolution directing summary publication of Ordinance No. O-2014-14. (R-2014-112)

No public testimony was received.

9 OTHER: PUBLIC HEARINGS**9.1 Approving Assessment Roll 2014-1 (2014-101 PMP) Adopt a Resolution**

Requested Action: Adopt a resolution approving Assessment Roll 2014-1 (2014-101 Pavement Management Program (PMP) Street Reconstruction Project).

There was no staff presentation.

Motion was made by Abrams, seconded by Baloga, and all voting aye, to adopt a resolution approving Assessment Roll 2014-1 involving 18 properties. (R-2014-113)

No public testimony was received.

9.2 Assessment Roll 2014-2 (2014-306 Rahr Preserve) Adopt Resolution

Requested Action: Adopt a resolution approving Assessment Roll 2014-2 (2014-306 West 110th Street Circle and Boone Circle Improvement Project).

Motion was made by Abrams, seconded by Busse, and all voting aye, to adopt a resolution approving Assessment Roll 2014-2. (R-2014-114)

No public testimony was received.

9.3 Assessment Roll 2014-3 (2012-103 Killebrew) Adopt Resolution

Requested Action: Adopt a resolution approving Assessment Roll 2014-3 (2012-103 Killebrew Drive Overlay Project).

Motion was made by Carlson, seconded by Abrams, and all voting aye, to adopt a resolution approving Assessment Roll 2014-3. (R-2014-115)

No public testimony was received.

9.4 GO Permanent Improvement Revolving Fund and Refunding Bonds of 2014, Series 48 Set Sale

Requested Action: Adopt a resolution setting the sale of General Obligation PIR Fund and Refunding Bonds of 2014, Series 48.

Chief Financial Officer Lori Economy-Scholler presented the staff report, which included a slide presentation. She said the issuance is for \$7,685,000 to cover the following projects: 2014 PMP, Boone Circle and 110th Street (Rahr), and the Killebrew Drive turn lane.

Winstead explained the PMP portion is for the list of assessments that were brought forward tonight and the refunding bonds are to save money.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to adopt a resolution approving Assessment Roll 2014-3. (R-2014-116)

No public testimony was received.

10 ORGANIZATIONAL BUSINESS

10.1 City Council Policy & Issue Update

The City Manager reminded Council of the October 21 study meeting at 6 p.m. Council brought the following issues:

- Baloga commented on the School District Roundtable discussion he attended with Abrams, Carlson & Oleson. He said it would be good for the Council to meet jointly with the School District to hear the results of their contracted demographic study. Staff to look at possibly scheduling a meeting in December.

Motion was made by Baloga, seconded by Abrams, and all voting aye, to pursue a joint meeting with the School Board.

- Lowman reported he is getting a fair amount of e-mails regarding the restriping of 106th Street.

Bernhardson said the City received similar feedback after 86th Street was restriped. He said he initially saw a lot of streaming on 106th Street at Humboldt Avenue but has seen gaps on other days. He questioned the signal situation at Humboldt Avenue.

Public Works Director Karl Keel said staff is looking into the timing of the signal but said it's been working better since the loops under the roadway were repaired.

- Oleson reported Seattle and Minneapolis recognized Indigenous Peoples' Day rather than Columbus Day and suggested the City should give some thought to doing that here.

Bernhardson said the City hasn't recognized Columbus Day in over 20 years.

Winstead inquired if the City should look at going in the direction suggested by Oleson.

Lowman said he would prefer the City choose a day that has a more historical meaning for Bloomington.

Winstead suggested the Human Rights Commission look into this.

Oleson said the Indigenous people should be involved in any change that might be considered by the City.

- Regarding burial mounds and the Rahr development, Abrams requested an update on the City's review regarding usage of the "prehistoric human remains" language in the City Code to ensure it conforms to State statute.

Staff to provide a response.

**10.2 Appoint Voting
Delegate & Alternates
to National League Of
Cities Conference**

Requested Action: Appoint one Voting Delegate and two Alternates to the National League of Cities Congress of Cities and Exposition that will be held on November 22, 2014, in Austin, TX.

Motion was made by Oleson, seconded by Abrams, and all voting aye, to designate Busse as the delegate and Lowman as the alternate.

11 ADJOURN

Mayor Winstead adjourned the meeting at 12:00 a.m.

Barbara Clawson
Council Secretary